

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

DEC 2 2019

Clerk, U S District Court  
District Of Montana  
Billings

JOSEPH DERRICK FORSYTHE,

Petitioner,

vs.

JAMES SALMONSON,

Respondent.

CV 18-30-BLG-SPW

ORDER

Petitioner Joseph Derrick Forsythe, appearing pro se, is a state prisoner petitioning for a writ of habeas corpus under 28 U.S.C. § 2254. (Doc. 1).

Pending before the Court are United States Magistrate Judge Timothy Cavan's findings and recommendations. (Doc. 23). Judge Cavan recommends this Court deny Forsythe's petition and direct judgment to be entered in favor of the Respondent. (Doc. 23 at 16). Forsythe filed a timely objection to the findings and recommendations, entitling him to de novo review. 28 U.S.C. §636(b)(1); Fed. R. Civ. P. 72(b)(3).


The Court has reviewed Forsythe's objections. (Docs. 24 and 25). The Court has also reviewed Forsythe's supplements to his objections. (Docs. 26 and 27). The Court agrees with Judge Cavan in full that claims 1, 2, and 5 are

procedurally defaulted, claim 3 is not cognizable in federal habeas, and claim 4 does not survive deferential review under 28 U.S.C. § 2254(d).

Accordingly, IT IS HEREBY ORDERED:

1. Judge Cavan's findings and recommendation (Doc. 23) are adopted in full;
2. Forsythe's objections (Docs. 24 and 25) are overruled;
3. Forsythe's petition (Doc. 1) is denied;
6. The Clerk of Court is directed to enter judgment, by separate document, in favor of Respondent and against Petitioner; and
7. A certificate of appealability is denied.

DATED this 2<sup>nd</sup> day of December, 2019.

  
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SUSAN P. WATTERS  
United States District Judge